

Appl. No.: 10/029,968
Filed: December 31, 2001
Amdt. dated 03/31/2006

REMARKS

This Amendment is being filed concurrently with a request for continued examination (RCE) and in response to the final Official Action of October 31, 2005, and the Advisory Action of March 3, 2006. The present application includes pending Claims 19-40, of which the final Official Action and Advisory Action reject Claims 19-30 and 34-40 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,580,459 to Uchino, in view of U.S. Patent No. 6,023,292 to Wakui. The final Official Action and Advisory Action then reject the remaining claims, namely Claims 31-33, under 35 U.S.C. § 103(a) as being unpatentable over the Uchino patent in view of the Wakui patent, and further in view of U.S. Patent No. 6,304,728 to Bittner. As explained below, Applicant respectfully submits that the claimed invention is patentably distinct from Uchino, Wakui and Bittner, taken individually or in combination, and accordingly traverses the rejections of the claims as being unpatentable over various combinations thereof. Nonetheless, Applicant has amended independent Claims 19 and 34 to more clearly define the claimed invention, and accordingly also amended dependent Claims 35, 39 and 40 consistent with the amendment to independent Claim 34. In view of the amendments to the claims and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

The present patent application is directed to a mobile communication terminal, or more particularly a mobile phone, including a digital camera and an infrared transceiver. In this regard, amended independent Claim 29 provides a mobile communication terminal comprising a mobile phone and including a digital camera having an angle of view. As recited, the mobile communication terminal also includes an infrared transceiver for emitting a beam of infrared light through an infrared port and through which a wireless connection is also provided between the terminal and other devices. The angle of view of the digital camera and the infrared light beam are directed such that the emitted infrared light beam overlaps a substantial part of the angle of view so that objects in the angle of view may be illuminated by the infrared light beam, and such that the transceiver receives through the port infrared light reflected by the objects illuminated by the beam of infrared light.

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A. Claims 19-30 and 34-40 are Patentable over Uchino in view of Wakui

In contrast to amended independent Claim 29, Applicant respectfully submits that neither Uchino nor Wakui, taken individually or in combination, teach or suggest a mobile phone or a mobile phone that includes a camera, and a transceiver for both (a) illuminating objects in the angle of view of the camera, and (b) providing a wireless connection between the terminal and other devices. As previously explained, Uchino discloses a digital camera that includes an infrared light emitter for supplying infrared light to an image sensing unit, and an optical filter including an infrared cut filter and a visible light cut filter for selectively acquiring a visible light image and an infrared light image. Wakui discloses a digital camera having infrared light emitting and receiving elements for emitting and receiving infrared light, respectively, to thereby determine the position of the digital camera to different objects or communicate with other devices. Both Uchino and Wakui therefore disclose digital cameras. Neither Uchino nor Wakui individually teach or suggest a mobile phone including a camera and a transceiver, and accordingly, the combination of Uchino and Wakui does not teach or suggest such a mobile phone.

In further contrast to amended independent Claim 29, Applicant respectfully maintains that neither Uchino nor Wakui, taken individually or in combination, teach or suggest a transceiver for both (a) illuminating objects in the angle of view of the camera, and (b) providing a wireless connection between the terminal and other devices. In this regard, the Official Action alleges, and the Advisory Action maintains, that Uchino discloses a mobile communication terminal including a camera and a transceiver for illuminating objects in the angle of view of the camera. The Official Action concedes, though, that Uchino does not teach or suggest a transceiver providing a wireless connection between the terminal and other devices. For this claimed feature, the Official Action cites Wakui, and alleges that one skilled in the art would have been motivated to add this feature to Uchino to disclose the claimed invention. Applicant again respectfully disagrees.

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1. *Neither Uchino nor Wakui Teach/Suggest the Claimed Transceiver*

As conceded in the Advisory Action, Wakui does not teach or suggest a transceiver that both illuminates an angle of view of a camera, and provides a wireless connection, as recited by amended independent Claim 29. And although the Official Action concedes that Uchino does not teach or suggest a transceiver for providing a wireless connection between the terminal and other devices, the Official Action asserts, and the Advisory Action maintains, that Uchino discloses a transceiver, and that a receiving portion of the transceiver is the charge-coupled device (CCD) of the disclosed camera. Applicant again respectfully submits, however, that under no reasonable interpretation does the CCD of the Uchino camera correspond to any receiving portion of the transceiver of the claimed invention. According to the MPEP, pending claims must be given their broadest reasonable interpretation that must not only be consistent with the specification, but must also be consistent with the interpretation that those skilled in the art would reach. MPEP § 2111 (citing *In re Cortright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999)). In the instant case, Applicant respectfully submits that under no circumstance would one skilled in the art reasonably interpret the CCD disclosed by Uchino as corresponding to a receiving portion of a transceiver.

As is readily understood by those skilled in the art, CCDs and transceivers are configured and utilized for completely different functions. In this regard, the CCD disclosed by Uchino is configured and utilized for capturing images. The transceiver, or more particularly any receiving portion of the transceiver, recited by the claimed invention provides a wireless connection between the terminal and other devices. Moreover, as the claimed invention recites a camera and transceiver as separate elements of the mobile communication terminal, any interpretation that the transceiver includes a portion of the camera (i.e., CCD) would be illogical. One skilled in the art would therefore not reasonably interpret the disclosed CCD as corresponding to the recited transceiver, or any receiving portion thereof.

The Advisory Action asserts that, according to its broadest interpretation, a transceiver is any device that can transmit and receive. The Advisory Action then asserts that Uchino's emitting portion emits/illuminates infrared light, and its CCD not only captures but also receives infrared images. Applicant respectfully submits, however, that although the CCD of Uchino may

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be adapted to "capture" images, the CCD is not in fact adapted to "receive" images or any other data or information in such a manner that the CCD may be considered a receiver or receiving portion of a transceiver. Again, as well understood by those skilled in the art, the term "receiver" is associated with a device that can handle an incoming signal, which is often a detectable physical quantity or impulse representing coded information. A CCD such as that disclosed by Uchino cannot handle coded information, only images. The same applies to the infrared "emitting portion" as disclosed by Uchino. That is, the emitting portion disclosed by Uchino is simply a (IR) lamp, and it is not a device suitable to send or otherwise transmit coded signals. Thus, even if one could argue (although expressly not admitted) that a transceiver may broadly be interpreted as any device that can transmit and receive, the aforementioned components disclosed by Uchino do not "transmit" or "receive," but instead "emit" and "capture."

In view of the foregoing, contrary to the assertions of the Official Action and Advisory Action, Applicant respectfully submits that Uchino does not teach or suggest a mobile phone including a transceiver such as that recited in amended independent Claim 29.

2. *The Combination of Uchino/Wakui does not Teach/Suggest the Claimed Invention*

Even if one skilled in the art combined Uchino and Wakui, Applicants again respectfully submit that the combination still does not teach or suggest the transceiver recited by amended independent Claim 29. In this regard, Uchino discloses an infrared light emitter for supplying infrared light to a CCD. Wakui, on the other hand, discloses a camera including infrared light emitting and receiving elements for communicating with other devices. At best, and due to simplicity of modification, then, the combination of Uchino and Wakui discloses a camera including an infrared light emitter for supplying infrared light to a CCD, and also infrared light emitting/receiving elements for communicating with other devices. And while this combination may provide an additional wireless communication function, as asserted by the Official Action, the combination does not read on the claimed invention. Rather, instead of including separate elements for supplying infrared light and providing a communications link, in accordance with amended independent Claim 29, on the other hand, the same transceiver performs both functions

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(i.e., illuminating objects in the angle of view of the camera and providing a communications link).

Moreover, Applicant respectfully submits that not only would one skilled in the art not be motivated to further modify the combination of Uchino and Wakui to supply both the illuminating and communications functions from the same transceiver, but that any attempt to assert such a motivation can only be made through impermissible hindsight. *See In Re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (explaining that "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure of a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight"). In this regard, the neither the final Official Action nor the Advisory Action have provided any explanation as to why one skilled in the art would combine Uchino and Wakui by including a transceiver that both illuminates objects in the angle of view of the camera and provides a communications link, as opposed to including an infrared light emitter for supplying infrared light to a CCD, and separate infrared light emitting/receiving elements for communicating with other devices. Again, as indicated above, Applicant respectfully submits that the latter combination not only achieves the advantage proffered by the final Official Action, but also simplicity of modification of Uchino.

For at least the foregoing reasons, Applicant respectfully submits that amended independent Claim 29, and by dependency Claims 30-33, is patentably distinct from Uchino and Wakui, taken individually or in combination. Applicant also respectfully submits that amended independent Claim 34 recites subject matter similar to that of amended independent Claim 29, including providing a mobile phone including a transceiver that both illuminates objects and provides a wireless connection between the terminal and other devices. Thus, Applicant respectfully submits that amended independent Claim 34, and by dependency Claims 35-40, is also patentably distinct from Uchino and Wakui, taken individually or in combination, for at least the same reasons given above with respect to amended independent Claim 29. As such, Applicant respectfully submits that the rejection of Claims 19-30 and 34-40 as being unpatentable over Uchino in view of Wakui is overcome.

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B. Claims 31-33 are Patentable over Uchino in view of Wakui and further in view of Bittner

As explained above, neither Uchino nor Wakui teach or suggest a mobile phone including a transceiver that both illuminates an angle of view of a camera, and provides a wireless connection, as recited by amended independent Claim 29 and by dependency Claims 31-33. Similarly, Applicant respectfully submits that Bittner also does not teach or suggest the mobile phone including the transceiver of the claimed invention. Thus, as none of Uchino, Wakui and Bittner individually teach or suggest the aforementioned claimed features, no combination of Uchino, Wakui and Bittner teach or suggest these features. Thus, Applicant respectfully submits that dependent Claims 31-33 are patentably distinct from Uchino, Wakui and Bittner, taken individually or in combination, for at least the same reasons given above with respect to amended independent Claim 29.

For at least the foregoing reasons, Applicant respectfully submits that the rejection of Claims 31-33 as being unpatentable over Uchino in view of Wakui, and further in view of Bittner, is overcome.

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CONCLUSION

In view of the amendments to the claims and the remarks presented above, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

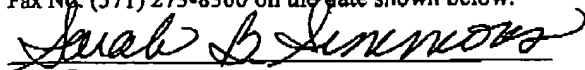


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Date